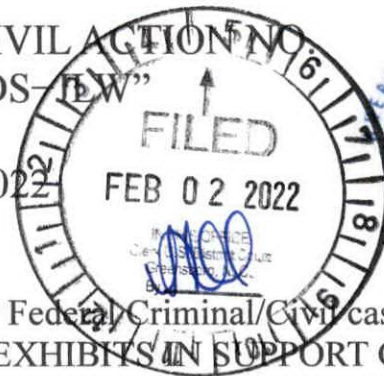


CASE NO. 1:13-CR-435-1 CIVIL ACTION NO.
1:22-cv-00074-TDS-JLW

January 31, 2022



Clerk,

Please file the "**AMENDED EXHIBIT 19** for For Federal Criminal/Civil case -- BRIEF / MEMORANDUM OF LAW AND ATTACHED EXHIBITS IN SUPPORT OF THE PETITIONER'S MOTION TO VACATE, SET ASIDE, OR CORRECT A SENTENCE BY A PERSON IN FEDERAL CUSTODY. MOTION UNDER 28 U.S.C. § 2255 by Brian David Hill; CASE NO. 1:13-CR-435-1 CIVIL ACTION NO. 1:22-cv-00074-TDS-JLW".

The wrong iteration was filed in Exhibit 19. What was filed was a printout of "E19-Brian Hill Declaration(3).pdf"

The updated Declaration which was supposed to be filed was a printout of: "Brian Hill Declaration(8).pdf". Wrong iteration was filed.

This was mailed out after working all night on this pleading. Sorry for the clerical mistake. I was already tired and working on this for weeks.

<p>Date of signing:</p> <p>January 31, 2022</p> <hr/> 	<p>Respectfully submitted,</p> <p> Signed Brian D. Hill</p> <hr/> <p>Signed Brian D. Hill (Pro Se) 310 Forest Street, Apartment 2 Martinsville, Virginia 24112 Phone #: (276) 790-3505</p> <p>U.S.W.G.O.</p> <p>I stand with QANON – Drain the Swamp I ask Qanon for Assistance (S.O.S.) Make America Great Again</p>
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Friend's justice site: JusticeForUSWGO.wordpress.com
JusticeForUSWGO.NL

Amended Declaration for Doc. #293-18 must be filed.

**AMENDED
EXHIBIT 19 #293-18
for**

For Federal Criminal/Civil case -- BRIEF /
MEMORANDUM OF LAW AND ATTACHED
EXHIBITS IN SUPPORT OF THE PETITIONER'S
MOTION TO VACATE, SET ASIDE, OR CORRECT A
SENTENCE BY A PERSON IN FEDERAL
CUSTODY. MOTION UNDER 28 U.S.C. § 2255

by Brian David Hill

CASE NO. 1:13-CR-435-1 CIVIL ACTION NO.

1:22-cv-00074-TDS-JLW

Ally of Q, Former news reporter of USWGO Alternative News
JUSTICEFORUSWGO.WORDPRESS.COM



**PURPOSE: TO CORRECT AN EARLIER MISFILING OF EXHIBIT 19, OLDER DRAFT
DECLARATION PRIOR TO FINAL DECLARATION; CLERICAL CORRECTION**

In the United States District Court
For the Middle District of North Carolina

Brian David Hill, Petitioner/Defendant)	
)	
)	
v.)	Criminal Action No. 1:13-CR-435-1
)	
United States of America,)	Civil Action No. _____
Respondent/Plaintiff)	
)	
)	

**DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF THE
PETITIONER’S MOTION TO VACATE, SET ASIDE, OR CORRECT A
SENTENCE BY A PERSON IN FEDERAL CUSTODY. MOTION UNDER
28 U.S.C. § 2255 FILED BY BRIAN DAVID HILL**

I, Brian David Hill, being first duly sworn upon oath, do hereby depose and state:

1. I am the criminal defendant in Criminal case No. 1:13-CR-435-1 in the Middle District of North Carolina, and am also the Petitioner in the new foregoing 2255 Motion case and Brief / Memorandum of Law not yet given a civil case number.
2. I am also a criminal defendant in Virginia State case no. C18-3138 when I was arrested by Officer Robert Jones an officer with Martinsville Police Department in the State/Commonwealth of Virginia. I heard that he was an investigator there much like a detective but haven’t confirmed that. His badge number may be #220.
3. Virginia is a Commonwealth but also called a State in the Federal Court records. Both refer to the same entity of “Virginia”. However the State of Virginia is known as a “Commonwealth” to my knowledge.

4. I was arrested on the date of September 21, 2018. Case no. C18-3138 was in the General District Court in the City of Martinsville.
5. I had been in the courtroom for the General District Court in the City of Martinsville multiple times. I only seen one judge in that courtroom each time I was in there for a hearing. I believe that Judge was named the Hon. Marcus A. Brinks, Chief Judge. I can't be certain but that name came up as the Judge in 2018 in the General District Court, so I assume it is him.
6. I am aware that the General District Court does not conduct jury trials. All cases in this court are heard by a judge. Jury trials are held only in circuit court, as provided by the Constitution of Virginia. The General District Court does not have transcripts of its bench trials that I am aware of. I understand that it is not a State Court of record.
7. On December 21, 2018, I was on trial in the General District Court. Court appointed attorney Scott Albrecht, Assistant Public Defender in the City of Martinsville, was present at the Trial. He argued at the Trial that I was not obscene and had typed up a Virginia Code on his phone and read it to the Judge. I believe he read out Virginia Code § 18.2-372.
8. During the Trial on December 21, 2018, after Attorney Scott Albrecht read that Brian David Hill never masturbated, never ran up to somebody physically and that person scream "Oh my God!". He argued that I was not being obscene. Then the Commonwealth Attorney Glen Andrew Hall argued "Brian was never charged with obscenity". I can't remember the entire hearing but I am recalling what I can remember since there are no Transcript services in the General District Court in Martinsville.
9. During the Trial on December 21, 2018, I remember Officer Robert Jones testifying on the stand in the General District Court. Scott Albrecht had asked that Officer if I had ever masturbated, and he said no. He asked if I was being obscene and the officer said I wasn't. He asked him if he was aware of Brian David Hill approaching anybody and them screaming oh my god. He asked Robert Jones if he thought I was aroused and he said no if I am remembering correctly. He attempted to ask enough questions. My memory of the Trial isn't as good as then and of course the Carbon

Monoxide may play a role in me not remembering everything very well. He was asking the Officer questions to prove to the Judge that I was not obscene. I never saw any regular person testifying about the September 21, 2018 incident, that day. Just Officer Robert Jones and I both testified that day.

10. During the Trial on December 21, 2018, Attorney Scott Albrecht had me testify on the stand under oath. I spoke about the guy in the hoodie threatening me to get naked and take photos of myself or my mother Roberta Hill would be murdered. The Commonwealth Attorney Glen Andrew Hall had me to explain the description of the guy in the hoodie. I said at another part of my testimony under oath, I assumed it was under oath, that I didn't want my mom shot full of holes and said it emotionally. The photos of me nude were presented to the Judge and to my attorney. My attorney did not argue any case law. It was pretty much that Scott Albrecht argued that I was not obscene, and the Commonwealth Attorney said I was not charged with obscenity. The judge saw the photos. I stepped down from the stand. The judge said he finds me guilty of indecent exposure. I asked Scott Albrecht to appeal it so that my Supervised Release would not be revoked. Scott Albrecht whispered in my ear: "Your probation is already revoked". I was angry after that and proceeded to file a pro se Notice of Appeal since Scott Albrecht did not discuss plans to file such. I suspected that the reason I was found guilty was because he didn't bring up the case laws where intent and obscenity must be proven to convict somebody of § 18.2-387. Indecent exposure. Then the Commonwealth Attorney arguing that I was not charged with obscenity, basically acknowledging that I was not obscene but argued strict liability even though those three or more case laws regarding the obscenity requirement could have had me found not guilty in General District Court. It just never worked out the way I had hoped it would have.
11. I do not believe that the Federal Court should consider the original conviction on December 21, 2018 in the General District Court as my final conviction at the time that it had happened since it isn't a Constitutional Court of record. My friend Eric S. Clark had called the General District Court a "police court" and does not consider that as a Constitutional State Court of Record. Eric S. Clark was a friend who helped me with legal pleadings years ago like in 2018, 2019, and even before 2018.

12. I found out in the Federal Courthouse in Roanoke, Virginia, in front of Magistrate Judge Robert S. Ballou that my Appeal had succeeded and that it was called a Trial De Novo. It was appealed to the Circuit Court of the City of Martinsville, and that is a State Court of Record. However not all hearings are under Transcription from a Court Reporter. Only the main Trial or Jury Trial appears to have the statutory requirement for a Transcript of the proceeding.
13. In 2019, after I was released on Federal Bond and later on had to turn myself in to later be released on State Bond, so I was under both State and Federal Bond conditions which I complied with both of them until I was no longer required to do so by both the State and Federal Courts.
14. After my release, I was appointed a new lawyer named Lauren McGarry after Scott Albrecht left the Public Defender office and he no longer worked there anymore.
15. On July 15, 2019, Lauren McGarry met with me and my family as I was to appear before the hearing which would have been set for jury trial on August 30, 2019 but was later continued until December 2, 2019.
16. Anyways, On July 15, 2019, I remember talking to her and my family about the Carbon Monoxide Gas exposure and I believe other issues, and she refused to defend me believing that I had no case. My mother Roberta Hill asked her "What about reasonable doubt?" and she acted as though there was no such thing. She had a hostile attitude in me having any legal defense.
17. On July 19, 2019, I started filing pro se motions again as I felt that Lauren McGarry was acting hostile towards me having any criminal legal defense for my charge. I felt that she was dangerous to me being acquitted of my Supervised Release Violation so I started filing pro se motions on my own again in the Circuit Court of Martinsville.
18. On July 19, 2019, I had filed the Motion to Request Substitute Counsel. I presented facts and one such fact was that in 2014, she was an "intern for the Commonwealth Attorney's Office of Martinsville. I also stated in that

motion: "Brian no longer wishes to stay in communication with his lawyer which causes a problem for Brian's Circuit Court case. He feels angry about her, and doesn't want to talk to her anymore because she is rude to Brian's family, complains that nothing can be brought up as evidence and not even medical records from the Hospital, and then she said that she cannot bring up Pete Compton as a witness for the trial. She ignored the case law which means, if there is a guilty verdict by a jury and the case is appealed up further, Lauren will not bring up the three different case laws regarding acquittals of indecent exposure for not meeting the bar of the obscenity clause. Lawyer Scott Albrecht told Brian and his family in 2018 that Brian was innocent of indecent exposure because Brian wasn't sexually aroused when he was naked, he was just naked, that was it." I also discovered that Lauren McGarry had worked as an intern for the Commonwealth Attorney's Office for the City of Martinsville as an intern but she attempted to cover that up on her LinkedIn page because Roberta Hill researched it and shown me her LinkedIn profile, printed it out for me. Then she showed me that Lauren McGarry was an intern at the Martinsville Commonwealth Attorney's Office as an intern but it struck me as odd that she wasn't honest about her past legal work as it may create issues as a court appointed lawyer. I brought up those issues in my Motion for Substitute counsel and I had typed in my filed motion in one paragraph: "Roberta Hill had discovered that Lauren's LinkedIn profile had omitted the fact that in 2014, she was an intern for the Commonwealth Attorney's Office of Martinsville. Brian's family found at least 2-3 articles showing that Lauren McGarry had worked for the Martinsville Commonwealth Attorney Office as an intern back in 2014. Explains why she doesn't want any witnesses to testify and doesn't want any evidence to be presented to the court for admissibility for the jury trial either. A potential conflict of interest. All of her refusals to do any defense work is beneficial to the other side, to the Commonwealth Attorney."

19. All of my pro se motions seemed to have been ignored by the Circuit Court Judge Hon. Giles Carter Greer except only the Motion to Withdraw Appeal. However, the Motion to Request Substitute Counsel was ignored, but then Lauren McGarry knew I made valid points in my pro se motions and admittedly in her filed motion that "An actual conflict of interest exists

concerning matters of zealous representation of clients, diligence and the relationship between counsel and the Defendant. See Rules of Professional Conduct 1.3, 1.6 and 1.7; see also *Holloway v. Arkansas*, 435 U.S. 475 (1978); *Dowell v. Commonwealth*, 3 Va. App. 555 (1987).” After that she was removed as my attorney of record and I was then appointed Matthew Scott Thomas Clark. He has an attorney office in Martinsville, Virginia at the time I was his client.

20. Attorney Matthew Scott Thomas Clark did make sure to push for the Circuit Court to modify my bond conditions to allow me to travel to the Federal Courthouse in Winston-Salem, North Carolina on September 12, 2019, to appear there for the Supervised Release Violation Trial.
21. After the Revocation Judgment rendered by Chief Judge Thomas David Schroeder on September 12, 2019, at a later day I was to set up an appointment to speak with Matthew Scott Thomas Clark. An appointment was set up for September 24, 2019. Instead of an actual visit, it was a teleconference phone call with Matthew S.T. Clark which gave me the opportunity to record the phone call in case the Attorney ever betrayed me or went sideways which he did, just like Lauren McGarry. I recorded the **Exhibit 3**, audio file converted to a physical Audio CD-ROM by usage of a Disc burning software. That audio CD which contains a “21 Minute, 25 Seconds audio clip of a phone call conference recording between Brian David Hill 276-790-3505 and Attorney Matthew Scott Thomas Clark 276-634-4000. Dated September 24, 2019. File reports time of 2:27PM. Attorney/client privilege for this audio waived.” Yes, I waive the attorney/client privilege for only the audio recorded in **Exhibit 3**. I am releasing this audio to the Court for the purpose of exposing him and exposing the interference I had witnessed where the quick Revocation decision on September 12, 2019, by Chief Judge Schroeder had screwed up my State Case and had caused my lawyer to start pushing me over and over again repeatedly to have me withdraw my appeal and accept the guilty verdict in the General District Court.
22. The next appointment I had with Matthew Scott Thomas Clark, it was the same thing, he acted like he couldn’t find any experts which would agree to testify in a “criminal case” but would testify in only civil cases about Carbon

Monoxide poisoning and how it causes weird or abnormal behaviors. I was dissatisfied that he didn't find a single expert agreeing to review over the evidence. He explained again, just like in the phone conversation I had recorded, that I would go in front of Christian Bible Belt jurors who would wonder why I was out there naked. He insinuated that they would find me guilty outright even with the case law requiring obscenity and intent to convict. He kept saying multiple times that we need a laser focus defense argument. He acted like he couldn't find any.

23. At the time I spoke with him, I did not know that Matthew Scott Thomas Clark had in his possession, the envelope full of evidence I had mailed to Police Chief G. E. Cassady, Certified Mail, Return Receipt, and restricted delivery. I had shown the original evidence of the envelope in Exhibit 15 filing in this 2255 case, of a video recording by myself containing: "30 Minutes, 13 Seconds Declaration testimony and physical evidence presentation by Brian David Hill. Recorded/produced on January 5, 2022." I had shown the envelope and proven in the video that it was still sealed and never opened by anybody after I had originally sealed it and mailed it to Police Chief G. E. Cassady on July 19, 2019 at the U.S. Post Office.
24. I am aware that on August 7, 2019, that Police Chief G. E. Cassady had personally signed the return receipt for the restricted delivery of envelope to the Chief of Police of Martinsville Police department. See the Federal Court records in the Western District of Virginia, Case # 4:20-cv-00017-JLK, Document 2-2, Filed 03/27/20, Page 42 of 72, Pageid#: 73; Page 41 of 72 Pageid#: 72; Page 40 of 72 Pageid#: 71; Page 39 of 72 Pageid#: 70. The envelope was also shown in the Exhibit 15 video which I had recorded and made such statements under Declaration and under penalty of perjury. I hold this envelope as evidence and it is in my possession.
25. After I had filed my Motion to Withdraw Appeal, I made sure to not give Matthew Clark his way and I filed it in a way to ensure that I did not plead guilty and it is on the Record on Appeal in the case that I did not plead guilty but only withdrawn my appeal so that Matthew Clark would be happy and I can try to challenge the conviction by other means. Like for example, the Petition for the Writ of Actual Innocence. I had initially filed a Petition for the Writ of Habeas Corpus on the ground of Actual Innocence, ineffective

counsel, and other grounds but my Petition for the Writ of Habeas Corpus was dismissed not due to merits but was dismissed because I was not in State custody at the time I had filed my Petition for the Writ of Habeas Corpus (“WHC”). So that is why it failed in the Commonwealth of Virginia and in the Circuit Court. It failed on direct appeal because I was not in State custody at the time my WHC was filed. WHC was filed in case no. CL19000331-00, filed November 18, 2019.

26. In my Motion to Withdraw Appeal in the Circuit Court, I had preserved certain grounds such as “Actual Innocence. It said on record that “However Brian does NOT waive his right to collaterally attack/challenge his conviction in General District Court and also does NOT waive his right to file a Writ of Actual Innocence.” This was put in under Exhibit 4, a true and correct copy from the Appeal Record where Roberta Hill received Portable Document Files (“PDF”) files containing the entire Record on Appeal and was emailed to Roberta Hill at rbhill67@comcast.net, by a deputy Clerk at the Court of Appeals of Virginia. So it is a true and correct copy of my filed MOTION TO WITHDRAW APPEAL in the Circuit Court of Martinsville, and was faxed to the Clerk’s Office on November 11, 2019. It was dated as to being filed on November 12, 2019 by the Deputy Clerk or Clerk or both.
27. I am not admitting guilt when I had withdrawn appeal. Whenever I had read the Record on Appeal in February or March, 2021, I don’t have the exact day in my head as to whenever I had started reading the Record on Appeal file, but I had learned that I had never plead guilty and that the Judge or his Law clerk or whoever had marked out any notion that I ever changed my plea. I am making sure to file **Exhibit 5**, supporting my claim made under oath in this Declaration that I did not ever plead guilty. In fact it says in that conviction order that “DEF ~~CHANGED HIS PLEA TO GUILTY AND~~ AFFIRMED JUDG GDC, PAY COURT COSTS”. The words about “CHANGED HIS PLEA TO GUILTY AND” were stricken from the record by what appears to be a black permanent marker pen ink. This proves to the Federal courts that I did not permanently give up the fight to be found Innocent of Virginia Code § 18.2-387. Indecent exposure. I preserved my Innocence and the Circuit Court had accepted that I had initially preserved my “innocence”. So it is essentially almost like an Alford Plea. I let them

convict me but I did not plead guilty and I had maintained my innocence. So it could be construed legally as an Alford Plea.

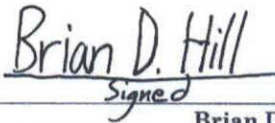
28. I am aware of the definition Alford Plea, meaning “An Alford plea, in United States law, is a guilty plea in criminal court, whereby a defendant in a criminal case does not admit to the criminal act and asserts innocence.” Although that definition does not match that I entered no guilty plea at all. It was mainly withdrawing my appeal from the Circuit Court and that entered my final conviction. I had timely appealed that decision in attempting to overturn the final conviction. It seems to be still pending and I have yet to be ordered by the Supreme Court of Virginia to file any brief or Petition for Appeal. So it is still pending, the direct appeal. My conviction may not be final.
29. I had asserted in my Motion to Withdraw Appeal that “Brian will not get a fair trial in state court until his federal conviction is overturned, or that President Donald John Trump grants Brian a pardon of innocence for his federal conviction.” So the Federal Conviction in November 12, 2014, had played a role in what led up to the Motion to Withdraw Appeal, where the State Court could use my wrongful conviction of child porn against me while my 2255 Motion for that conviction was still pending. I was told by multiple private lawyers that I could not bring up about my 2255 Motion attempting to challenge my wrongful conviction at the time, all they would hear is “Brian was convicted of possession of child pornography.” I knew it would create artificial stigmatization. The entire jury would feel that I was a pervert and they would refuse that I was not obscene and refuse that I had no intent to run around naked. They would refuse to accept my explanation about Carbon Monoxide, once they hear the words “child porn, child porn, child porn, child porn, child porn” that will be all they would think about. I would be convicted no matter what when they simply hear the words “child porn” and “federal case” in the “Middle district of North Carolina” referring to 1:13-cr-435-1. So I didn’t withdraw my appeal because of any guilt. I wasn’t going to receive a fair trial because of my Federal case, my wrongful conviction, and why I am under Supervised Release to begin with.
30. After I had withdrawn appeal, I had at some point in 2019 or 2020, I had filed an application for an Absolute Pardon with the office of the secretary of

the Commonwealth. From what I understand it is: "An absolute pardon may be granted when the Governor is convinced that the petitioner is innocent of the charge for which he or she was convicted. An individual is eligible to petition for an absolute pardon ONLY if he/she pled Not Guilty throughout the judicial process and exhausted all forms of judicial appeals and other remedies. An absolute pardon is rarely granted." I have not exhausted my Petition for a Writ of Actual Innocence. I plan on filing it after my 2255 Motion was filed. I plan on notifying the U.S. District Court and/or Federal Prosecutor after it is successfully filed and entered on the record in the Court of Appeals of Virginia. I did not give up on proving my innocence to my indecent exposure charge. I was forced by circumstances and Judge Schroeder's interference with the State Trial De Novo to withdraw my appeal. My Federal Case was going to be used against me and cause the Jury to feel angry and hateful towards me once they hear the Federal conviction of "possession of child pornography". I would not get impartial justice from a tainted jury. Once they hear my conviction in 2014 as the Middle district of North Carolina is aware of and the entire case is about, any chance of me being found not guilty by a jury probably reaches zero in my opinion. I cannot feel confident when the labels Federal conviction of "child porn" are used for at a Jury Trial for my charge of indecent exposure. My federal case does not have any fact as to the indecent exposure, but that would be a way to impeach or attempt to throw out my testimony if I choose to testify on the stand. It would not be a good position. It would not be a fair trial. That was one of different reasons why I had filed my Motion to Withdraw Appeal in the Circuit Court. I am not admitting to any violation of Supervised Release. I am not pleading guilty to the charging documents under #157, #156, and #158. All I did was withdraw my appeal and give myself a chance to be acquitted of both my State conviction on November 18, 2019 and Federal conviction on September 12, 2019.

That is the facts I wish to present from my personal knowledge and testimony under oath in this 2255 case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 17, 2022.

<p>Date of signing:</p> <p>January 17, 2022</p> <hr/>	<p>Respectfully submitted,</p> <p> <u>Signed</u> Brian D. Hill</p> <p>Signed Brian D. Hill (Pro Se) 310 Forest Street, Apartment 2 Martinsville, Virginia 24112 Phone #: (276) 790-3505</p> <p>U.S.W.G.O.</p> <p>I stand with QANON – Drain the Swamp I ask Qanon for Assistance (S.O.S.) Make America Great Again</p>
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